

Message

From: Yamada, Richard (Yujiro) [yamada.richard@epa.gov]
Sent: 7/21/2017 4:39:45 PM
To: Beck, Nancy [Beck.Nancy@epa.gov]; Forsgren, Lee [Forsgren.Lee@epa.gov]; Traylor, Patrick [traylor.patrick@epa.gov]
CC: Jackson, Ryan [jackson.ryan@epa.gov]; Baptist, Erik [baptist.erik@epa.gov]
Subject: RE: GenX

I will make this meeting as well, and may bring our PFAS coordinator along – please let me know – may be a bit late – thanks, Richard

From: Beck, Nancy
Sent: Friday, July 21, 2017 12:24 PM
To: Forsgren, Lee <Forsgren.Lee@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>; Yamada, Richard (Yujiro) <yamada.richard@epa.gov>
Cc: Jackson, Ryan <jackson.ryan@epa.gov>; Baptist, Erik <baptist.erik@epa.gov>
Subject: RE: GenX

If the meeting is not from 2-3, I would like to join as well. I can move my other meetings but not that one. One issue where I need to engage the legal team more is regarding the byproduct issue. TSCA is very clear that for new chemicals, if something is produced only as a byproduct it is not reported. Under 720.30(h)(2) a “byproduct which is not used for commercial purposes” is not subject to PMN reporting requirements.

What I’m less clear about is that once there is a PMN for manufacture of a chemical, if the facility also produces the chemical as a byproduct, does that byproduct need to be reported. OGC staff tell me that the “better reading” of the statute is that they are required to report all byproducts (even from other processes once there is a PMN).

720.45 describes the information that must appear on the PMN form. Just one example of what must be reported is in 720.45(g):

(g) For sites controlled by the submitter:

- (1) The identity of sites where the new substance will be manufactured, processed, or used.
- (2) A process description of each manufacture, processing, and use operation which includes a diagram of the major unit operations and chemical conversions, the identity and entry point of all feedstocks, and the points of release of the new chemical substance.
- (3) Worker exposure information, including worker activities, physical form of the new substance to which workers may be exposed, the number of workers, and the duration of activities.
- (4) Information on release of the new substance to the environment, including the quantity and media of release and type of control technology used.

Note that this does not mention byproducts but I’m told nothing in this sections excludes data from any manufacturing that is as a noncommercial byproduct. Thus OGC has told me: if manufacture had remained solely as a noncommercial byproduct nothing would have had to be filed under section 5. But once there is an obligation to report manufacture under section 5, we believe the better reading of the provision is that all the TSCA manufacture needs to be reported under section 5.

Its not clear to me that EPA has ever produced any guidance on this and this becomes very important when looking at enforcement concerns here. What I’d like a better sense of is whether it is reasonable for the public to share our interpretation regarding the byproduct issue. I will follow up with Erik on this, but thought you should know before the call in case I am unable to join.

Thanks.

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From: Forsgren, Lee
Sent: Friday, July 21, 2017 11:27 AM
To: Traylor, Patrick <traylor.patrick@epa.gov>; Beck, Nancy <Beck.Nancy@epa.gov>; Yamada, Richard (Yujiro) <yamada.richard@epa.gov>
Cc: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: RE: GenX

Patrick,

I and my Drinking Water Folks will move anything this afternoon to be on that call. I would ask that if at all possible we do it before 5:00 pm (have a call with the ID Secretary that we have moved 3 times and I would prefer not to stick him again), but if you can only do it then so be it.

Lee

From: Traylor, Patrick
Sent: Friday, July 21, 2017 11:24 AM
To: Forsgren, Lee <Forsgren.Lee@epa.gov>; Beck, Nancy <Beck.Nancy@epa.gov>; Yamada, Richard (Yujiro) <yamada.richard@epa.gov>
Cc: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: GenX

I have reached out to our Region 4 enforcement director and he is pulling together the documents and people who will be able to report out on the inspection. It will likely be after lunch before we can convene.

Patrick Traylor
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